IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Rajesh Kumar Vs. State of Rajasthan

S.B.CR. MISC. BAIL APPLICATION NO.4996/2007

DATE OF ORDER :: October 29, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Sandeep Mehta, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.

BY THE COURT:

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and the police investigation diary.

It is contended by learned counsel for the petitioner that the petitioner is a power of attorney holder and in exercise of the power conferred under the attorney, he has sold the land mentioned in the document on 11.5.2007. It is further contended that the land in dispute was sold by co-accused Bheru Lal, Smt. Dhapu Bai and Jamna Lal to the complainant by a sale deed dt. 4.5.2007 and these three persons received the sale

consideration of Rs.4,00,000/-.

Learned Public Prosecutor opposes the bail application and contends that the land which was registered in the name of co-accused Bheru Lal, Smt. Dhapu Bai and Jamna Lal was sold to complainant Heera Lal on 4.5.2007 for getting the documents registered and stamp papers were purchased on 1.5.2007 and, thereafter the document transferring the land mentioned therein i.e. sale-deed was executed on 4.5.2007. He has shown me the documents executed by co-accused Bheru Lal, Smt. Dhapu Bai and Jamna Lal in favour of complainant Heera Lal. It appears that after getting the land sold to Heera Lal, the complainant, co-accused Bheru Lal, Smt. Dhapu Bai and Jamna Lal and the present petitioner entered into a criminal conspiracy and in furtherance thereto, a power of attorney in respect of the very land which had already been sold to complainant Heera Lal has been executed in favour of the petitioner, who in turn sold the land to Chandra Kant Sharma by a registered sale deed dt. 11.5.2007 knowing well that the land in question has already been sold to Heera Lal by sale deed dt. 4.5.2007. The stamp papers were purchased on 1.5.2007 and the sale deed was executed on 4.5.2007. There is evidence to effect available on police investigation/ case diary.

Having regard to the fact and circumstances of the case and the fact that co-accused sold the plots No.13, 14, 15, 16,

17, 18, 49, 50, 51 and 52 for the consideration of Rs.4,00,000/- to complainant Heera Lal on 4.5.2007 and thereafter it is alleged that the co-accused-persons entering into a criminal conspiracy with the present petitioner executed the power of attorney in favour of the petitioner for the very plots and the petitioner knowing well that these plots had already been sold to complainant on 4.5.2007 further sold the aforesaid plots to one Chandra Kant Sharma and, therefore, it is alleged that the offences of cheating and, forging the documents and entering into the criminal conspiracy have been committed by these three co-accused persons as also by the present petitioner, keeping in view the serious allegations of entering into the criminal conspiracy and transferring the land, which had already been sold, in my view, it cannot be said at this stage that the petitioner is not involved in the commission of the crime. In such matters, custodial interrogation is necessary In this view of the matter, it is not a fit case to grant anticipatory bail to the petitioner under section 438 Cr.P.C..

The bail application filed under section 438 Cr.P.C. is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-